

THE UNITED STATES SENTENCING COMMISSION

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William W. Wilkins, Jr. Chairman
Michael K. Block
Stephen G. Breyer
Helen G. Corrothers
George E. MacKinnon
Irene H. Nagel
Paul H. Robinson
Benjamin F. Baer (ex officio)
Ronald L. Gainer (ex officio)



COMMISSION MEETING

AGENDA

March 27, 1987

The following persons attended the U.S. Sentencing Commission Meeting on March 27, 1987.

Commissioners

William W. Wilkins, Chairman
Michael K. Block
Stephen G. Breyer
Helen G. Corrothers
Ronald L. Gainer
George E. MacKinnon
Ilene H. Nagel
Paul H. Robinson

Staff

Suzanne Conlon, Executive Director
Alan Chaset
Russell Ghent
Kim Halbig
Lester Joseph
Debbie Lister
David Lombardero
Paul Martin
John Steer
Camille Williams

Guest

Bill Landers, Special Assistant to the
Assistant Attorney General
Criminal Division
Department of Justice

Commission Meeting Minutes - March 27, 1987

Chairman Wilkins called the meeting to order at 9:40 a.m., on Friday, March 27, 1987. The meeting was held in the U.S. Sentencing Commission offices at 1331 Pennsylvania Avenue, NW, Washington, DC.

ROLE IN THE OFFENSE:

The Commission considered a revised proposal on Part Z - Role in the Offense.

Section Z212 was extensively discussed, particularly the differences between a "minimal participant" in §212(b) and a "minor participant" in §212(c).

Judge Breyer moved to separate §Z212 into two guidelines, one pertaining to withdrawal from a conspiracy (212(a)) and the other covering the minor/minimal roles (212(b) and (c)). The motion also incorporated the re-drafting of Commentary to clarify the difference between minor and minimal and to indicate that a defendant could get the benefit of a mitigating adjustment for withdrawal from a conspiracy or for minor/minimal role in the offense, but not both. Additionally, the Commentary would make clear that a mitigating adjustment for withdrawal from a conspiracy would not preclude an additional downward adjustment under Acceptance of Responsibility, provided that there were factors other than the withdrawal from the conspiracy to justify mitigation for Acceptance of Responsibility. Commissioners Nagel and Corrothers seconded the motion and it was adopted (Commissioner Robinson abstained).

Prior to the adoption of the above motion, Commissioner Gainer initiated a discussion concerning the need for a floor under the mitigating adjustments for Role in the Offense. It was generally agreed that a floor would not be necessary if a defendant could qualify for only one of the mitigating adjustments (for minor/minimal role or withdrawal from conspiracy).

Multiple Counts: Concurrent/Consecutive:

At the request of the Chairman, David Lombardero presented a proposal to guide sentencing for multiple count convictions. After extensive discussion, Judge Breyer moved that drafting continue along the principles outlined and discussed. Commissioner Block seconded and the motion was adopted without objection. Commissioner Gainer offered to provide written suggestions on wording for determining a consolidated sentence without resort to the "concurrent" terminology and with emphasis on incremental punishment for each offense of conviction.

OTHER ITEMS:

The Commission postponed further actions on Criminal History and directed Russell Ghent and Peter Hoffman to present a revised proposal. The Commission postponed action on the Special Offender section pending review by Commissioners of a legal memorandum prepared by John Steer.

AGENDA FOR WEEK OF MARCH 30:

The Chairman and Commissioners discussed plans for the coming week and agreed to meet on Wednesday, April 1, at 9:30 a.m., unless the Chairman notified the Commission otherwise.

The Chairman directed Executive Director Suzanne Conlon to convene a meeting of the staff that afternoon.

The meeting was adjourned.